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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/022,982	12/17/2001	William Joseph Armstrong	ROC920010097US1	4230
26517	7590	08/10/2005	EXAMINER	
WOOD, HERRON & EVANS, L.L.P. (IBM) 2700 CAREW TOWER 441 VINE STREET CINCINNATI, OH 45202			TO, JENNIFER N	
			ART UNIT	PAPER NUMBER
			2195	

DATE MAILED: 08/10/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/022,982

Applicant(s)

ARMSTRONG ET AL.

Examiner

Jennifer N. To

Art Unit

2195

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 06 July 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-39 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-39 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date: _____ |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date: _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. Claims 1-39 are pending for examination.

Claim Rejections - 35 USC § 101

2. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

3. Claim 38 is rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

4. As per claim 38, in accordance with Page 11 of Applicant's specification, "signal bearing medium" encompasses, but is not limited to, recordable media and transmission media. While it is believed that recordable media with computer executable code stored thereon are capable of providing the code to a computer in a manner which enables its functionality to be realized and cause the computer to perform operations which produce a useful, concrete and tangible result, such is not believed to be true for transmission media absent some recited means to receive and process the transmission being claimed in combination with the transmission media and code. Therefore, claim 38 is non-statutory

Claim Rejections - 35 USC § 112

5. The following is a quotation of the second paragraph of 35 U.S.C. 112:

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The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter in which the applicant regards as his invention.

6. Claim 22 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

a. The claim language in the following claims is not clearly understood:

i. as per 22 (line 4), it is uncertain whether "some combination" means the combination of time measurement and pointer data, and/or an invocation stack and pointer, and so on.

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 1-9, 18, 21-28, and 37-39 are rejected under 35 U.S.C. 103 (a) as being unpatentable over Chatfield (U.S. Patent No. 4183083), in view of Wygodny (U.S. Patent No. 6202199).

9. Chatfield and Wygodny were cited in the last office action.

10. As per claim 1, Chatfield teaches the invention substantially as claimed including a method of analyzing program execution within an operating system of a multi-program environment (col. 4, lines 21-22), comprising:

accumulating diagnostic data pertaining to a program accessing a resource (figs. 5a, 5b, 5c; col. 3, lines 9-13; col. 10, lines 49-55; col. 99, lines 40-43);

the execution of a program being predicated upon the program's access to the resource (col. 7, lines 6-8); and

storing the diagnostic data within a data structure at a location in the data structure correlated to the resource (figs. 4, 7, 9, 11-12; col. 7, lines 3-14; col. 100, lines 46-52; col. 102, lines 47-50).

11. Chatfield did not specifically teach a thread or multithreads. However, Wygodny teaches multiple threads (abstract, line 12).

12. It would have been obvious to one of an ordinary skill in the art at the time the invention was made to have combined the teaching of Chatfield and Wygodny because Wygodny's threads would improve the granularity of Chatfield's system by covering the threads environment.

13. As per claim 2, Chatfield further teaches the diagnostic data includes data selected from at least one of: a time measurement (col. 11, lines 35-36), program code

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executed by the thread (col. 8, lines 22-23), an invocation stack (col. 9, lines 42-43), and pointer data (col. 11, line 10).

14. As per claim 3, Wygodny teaches that the data structure comprises a hash bucket (col. 26, lines 52-54).

15. As per claim 4, Chatfield further teaches that determining the resource (col. 3, lines 13-17).

16. As per claim 5, Chatfield further teaches that determining the resource includes reading contents of a task dispatcher (col. 11, lines 8-17).

17. As per claim 6, Wygodny teaches that storing information identifying the resource (col. 5, lines 28-31).

18. As per claim 7, Wygodny teaches that matching an identifier corresponding to the resource to a correlative identifier corresponding to the data structure (col. 16, lines 16-24).

19. As per claim 8, Wygodny teaches that reassigning the identifier to a second resource (col. 26, lines 47-49).

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20. As per claim 9, Wygodny teaches that assigning the correlative identifier to the data structure (col. 26, lines 49-51).

21. As per claim 18, Wygodny teaches that displaying the diagnostic data (col. 3, lines 13-18).

22. As per claim 21, this is an apparatus claim that corresponds to the method claim 1. Therefore, this claim is rejected for the same reason as claim 1 above. In addition, Chatfield teaches the invention substantially as claimed including an apparatus comprising:

at least one processor configured to execute a plurality of threads (col. 4, lines 44-49);

a memory (col. 4, line 33); and

program code resident in the memory and configured to execute on the at least one processor (col. 8, lines 19-27).

23. As per claims 22-28 and 37, these are apparatus claims that correspond to the method claims 2-9 and 18. Therefore, these claims are rejected for the same reason as claims 2-9 and 18 above.

24. As per claim 38, this is a program product claim that corresponds to the method claim 1. Therefore, this claim is rejected for the same reason as claim 1 above.

25. As per claim 39, Wygodny teaches the signal-bearing medium includes at least one of a recordable medium (col. 4, line 64).

26. Claims 10-17, 19-20, and 29-36 are rejected under 35 U.S.C. 103 (a) as being unpatentable over Chatfield (U.S. Patent No. 4183083) in view of Wygodny (U.S. Patent No. 6202199), as applied in claim 1 above, and further in view of Wilner (U.S. Patent No. 5872909).

27. Chatfield, Wygodny and Wilner were cited in the last office action

28. As per claim 10, Chatfield and Wygodny did not specifically teach detecting a locking occurrence.

29. However Wilner teaches detecting a locking occurrence (col.3, lines 1-3).

30. It would have been obvious to one of an ordinary skill in the art at the time the invention was made, to have combined the teaching of modified Chatfield and Wilner because Wilner teaches the step of detecting a locking occurrence would improve the integrity of Chatfield and Wygodny's system by detecting race conditions, deadlocks, CPU starvation and other problems related to task interaction would be useful for quality analysis and testing (Wilner col.3, lines 1-9).

31. As per claim 11, Wilner teaches calculating a time increment corresponding to a duration that the thread remains locked (col. 22, lines 43-45).

32. As per claim 12, Wilner further teaches that storing the time increment within the data structure (col. 7, lines 19-25).

33. As per claim 13, Wilner further teaches that recording the time corresponding to the locking occurrence (col. 22, lines 35-39).

34. As per claim 14, Wilner further teaches detecting a removal of the lock (col. 3, lines 1-3).

35. As per claim 15, Wilner further teaches that recording a time instance corresponding to the removal of the lock (col. 11, line 65).

36. As per claim 16, Wilner further teaches recording program data relating to code executed by the thread prior to the locking occurrence (col. 21, lines 35-40).

37. As per claims 17, and 36, Wilner further teaches that is retrieving the program data from an invocation stack (col. 20, lines 1-11).

38. As per claim 19, Chatfield teaches the execution of the thread being predicated upon the thread's access to the resource (col. 7, lines 6-8).

Wygodny teaches storing information within a bucket of a plurality of hash buckets comprising a hash array, each hash bucket being correlated to the resource (col. 2, lines 59-62; col. 26, lines 50-54).

Wilner teaches calculating a time increment reflective of a duration a thread of the plurality of threads waits for access to a resource of the plurality of resources (col. 15, lines 11-67; col. 16, lines 1-10).

39. As per claim 20, Chatfield further teaches that reallocating the plurality of resources to group the diagnostic data with a different scheme (col. 14, lines 19-27).

40. As per claims 29-36, these are an apparatus claim that corresponds to the method claims 10-17. Therefore, this claim is rejected for the same reason as claims 10-17 above.

Response to Arguments

41. Applicant's arguments filed on 07/06/2005 have been fully considered but they are not persuasive.

42. In the remarks applicant argued:

(1) Chatfield fails to teach debugging problems associated with the processes of multiple threads.

(2) There is no motivation to combined Chatfield with Wygody et al.

(3) Wygody fails to teach accumulating diagnostic data pertaining to a thread accessing a resource, and storing the diagnostic data within a data structure at a location in the data structure correlated to the resource.

(4) Chatfield fails to teach storing diagnostic data within a data structure correlated the two types of data, let along correlating a bucket storing the data to the resource.

(5) Chatfield, Wygody, and Wilner fail to teach storing the time increment within a bucket of a plurality of buckets comprising a hash array, each bucket correlated to the resource.

43. Examiner respectfully traverses Applicant's remarks:

a. As to point (1) –(5), these claims are rejected base on a combination of references. Therefore applicant cannot attack the references individual.

b. As to point (1)-(2), Chatfield teaches accumulating system utilization data for one or more processing programs (col. 3, lines 11-13). Wygody teaches analyzing the execution of programs, and multithreads (abstract, lines 1-25). It would have been obvious to one of an ordinary skill in the art at the time the invention was made to have combined the teaching of Chatfield accumulating data for processing program and Wygody teaching of analyzing the execution of programs, and multithreads to allow developer tracing the execution paths (Wygody, abstract, lines 1-25).

Furthermore, in response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, the motivation for the rejection is found in the references themselves.

c. As to point (3), Chatfield teaches accumulating diagnostic data pertaining to a thread accessing a resource (figs. 5a, 5b, 5c; col. 3, lines 9-13; col. 10, lines 49-55; col. 99, lines 40-43), and storing the diagnostic data within a data structure at a location in the data structure correlated to the resource (figs. 4, 7, 9, 11-12; col. 7, lines 3-14; col. 100, lines 46-52; col. 102, lines 47-50).

d. As to point (4), Chatfield fails to teach storing diagnostic data within a data structure (figs. 4, 7, 9, 11-12; col. 7, lines 3-14; col. 100, lines 46-52; col. 102, lines 47-50). Wygody teaches a data structure correlated the two types of data, let along correlating a bucket storing the data to the resource (col. 26, lines 52-54).

e. As to point (5), Chatfield teaches the execution of the thread being predicated upon the thread's access to the resource (col. 7, lines 6-8). Wygodny teaches storing information within a bucket of a plurality of hash buckets comprising a hash array, each hash bucket being correlated to the resource (col. 2, lines 59-62; col. 26, lines 50-54). Wilner teaches calculating a time increment reflective of a duration a thread of the plurality of threads waits for access to a resource of the plurality of resources (col. 15, lines 11-67; col. 16, lines 1-10).

44. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

45. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jennifer N. To whose telephone number is (571) 272-7212. The examiner can normally be reached on M-T 7AM- 4:30 PM, F 7AM- 3:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Meng-Ai An can be reached on (571) 272-3756. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Jennifer N To
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